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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,147	08/17/2000	Sung- Oh Hwang	678-522 (P9490)	4729
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DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			EXAMINER CHANG, EDITH M	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/641,147

Applicant(s)

HWANG ET AL.

Examiner

Edith M. Chang

Art Unit

2637

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 9-16 and 24-35.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants argue that in the rejection of independent claims 9, 13 and 24, the primary and secondary synchronization codes have nothing to do with scrambling (page 7 of remarks).

In the page 2 lines 15-16 of the specification, it states that the scrambling code used for IDENTIFICATION of the base stations is referred to as a "PRIMARY SCRAMBLING CODE".

Hence, the primary and secondary synchronization codes used in Popovic ('482) are the primary and secondary scrambling codes (column 13, lines 53-60 '482) wherein the synchronization code first used to identify the base station (column 3, lines 14-20) wherein the synchronization channel provides the codes to identify the base station, to acquire the channel information regarding the random access spreading codes to track the channel;

Hence, the primary and secondary synchronization codes used in Terasawa et al. ('264) are the primary and secondary scrambling codes (column 2, lines 20-26 '264) wherein the secondary SCH indicates which of the 32 different code groups the base station PN scrambling code belongs to; and

Hence, the primary and secondary synchronization codes used in Ostberg et al. ('830) are primary and secondary scrambling codes transmitted in primary and secondary control channels, e.g., a Perch 1 and Perch 2 channels (column 3, lines 33-35) comprising pilot symbols and information symbols per slot (column 3, lines 45-48) wherein the synchronization code in the slot indicates/identifies the scrambling code.

Regarding Claim 9, applicants argue that the claim 9 relates to identifying a secondary scrambling code, whereas Popovic relates to synchronization codes. The claim 9 is a channel code communication method relating to TRANSMITTING spread data to a mobile station using a primary scrambling code and TRANSMITTING to a mobile station a secondary scrambling code identifier. Popovic teaches TRANSMITTING spread data to a mobile station using a primary scrambling code and TRANSMITTING to a mobile station a secondary scrambling code identifier in FIG.1 and FIG.9 (refer to the rationale of the claim 9 rejection of the previous office action), therefore, Popovic does disclose the subject matter recited in the claim 9; and

the applicants argue that the claim 9 describes "setting secondary scrambling codes while communicating with the base station using the primary scrambling codes" which is not a limitation recited in the claim 9. The limitations in the specification are not read in a claim, if the claim does not recite the limitations.

Regarding Claim 13, applicants argue that claim 13 relates to identifying a secondary scrambling code, whereas Terasawa et al. relates to synchronization codes. The claim 13 is a channel code communication method relating to ACQUIRING an ID of a primary scrambling code during initial synchronization setting; RECEIVING a secondary scrambling code identifier; GENERATING the secondary scrambling code; and DESPREADING a received signal. Terasawa et al. teaches in FIG.1, FIG.3 and FIG.4 the channel code communication method comprising the steps of ACQUIRING, RECEIVING, GENERATING, and suggests (or inherently has) the despreading for wideband CDMA system with extended scrambling codes (column 2, lines 17-26 '264), therefore, Terasawa et al. does disclose the subject matter recited in the claim 13; and

the applicants argue that the claim 13 describes "setting secondary scrambling codes in order to expand a channel capacity of data channels during communication with the base station using the primary scrambling code and secondary scrambling codes" which is not a limitation recited in the claim 13. The limitations in the specification are not read in a claim, if the claim does not recite the limitations.

Regarding Claim 24, applicants argue that the Ostberg reference does not disclose a purpose of the primary and secondary scrambling codes, a relationship between the primary and secondary scrambling codes, and a method of indication about whether use the secondary scrambling codes. Ostberg does disclose the purpose (column 4, lines 24-30) for fast base synchronization and sector identification, the relationship in FIG.2A (column 6, lines 6-9) and FIG.4 (column 6, lines 63-67), and the method comprising transmitting, identifying, and descrambling AS RECITED in the claim 24 in FIG.4 (column 6, lines 50-67) refer to the rationale of the rejection of claim 24 in the previous office action.

The rejection of claims 9-16 and 24-35 is upheld.



KHAI TRAN
PRIMARY EXAMINER